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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,444	04/15/2004	Keith Raney	RANY001	1051
36297	7590	07/25/2005	EXAMINER	
BAY AREA INTELLECTUAL PROPERTY GROUP, LLC PO BOX 210459 SAN FRANCISCO, CA 94121-0459			KLEBE, GERALD B	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/826,444	RANEY, KEITH	
	Examiner	Art Unit	
	Gerald B. Klebe	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*G.B. Klebe*  
15 July 2005

#### Attachment(s)

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04/15/2004</u> .                                                          | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 in line 9 recites the limitation “the back side”; there is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

For the purposes of further examination on the merits this recitation will be interpreted as meaning the rear side.

Claim 9 in line 2 recites the limitation “the ground”; claim 10 in line 2 recites the limitation “on level ground”. It is not permitted to claim the earth (“ground”) as part of the invention. Appropriate correction is required.

For the purposes of further examination on the merits, the recitations will be interpreted as meaning the supporting surface of the truck.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Scott (US 5577568).

Scott discloses a power assisted hand truck (Fig 1, item 10), comprising: **(re: claims 1 and 11)** a generally vertically oriented rigid frame (20) having a top end, a bottom end, a front load receiving side, and a rear side; a load bearing member (28) joined to the front load receiving side of the frame; a pair of hand truck wheels (30) rotatably joined laterally towards the bottom end of the frame such that the frame can be rolled about; and a motor (70) rigidly joined to the frame, the motor being configured to rotate a power assistance wheel (40) that is rotatably joined to the frame towards the bottom end of the back side such that power assisted translational motion is imparted to the frame when both the motor and the power assistance wheel are engaged (refer col 4, lines 30-38); and **(re: the further limitations of claim 11,** rotational means (taken as the handle 24) to rotate a power assistance wheel means (40) such that translational motion is imparted to the frame (20) when both the rotational means and the power assistance wheel means are engaged (as shown in Fig 2; and refer col 4, line 63 to col 5, line 6); and wherein **(re: claim 2)** the power assistance wheel (40) is generally centered between the pair of hand truck wheels such that load balancing stability is improved (refer Fig 3); and **(re: claim 3)** wherein the motor is configured to rotate the power assistance wheel by driving a gearbox (72), which gearbox is configured to transmit rotational motion from the motor to a power assistance axle (48) that is joined to the power assistance wheel such that rotational motion is imparted to the power assistance wheel when the motor is engaged (refer col 4, lines 34-38); and **(re: claim 9)** wherein the power assistance wheel is configured such that it engages the supporting surface of the truck when the power assisted hand truck is pivotally tilted in the rear direction at a certain

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tilt engagement angle (refer col 4, line 56 to col 5, line 5); and (**re: claim 10**) wherein the tilt engagement angle is approximately 45 degrees relative to the supporting surface of the truck (refer Fig 2).

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott (US 5577568) in view of Brabetz et al. (US 2002/0084119 A1).

As discussed above, Scott discloses all of the features of claim 1 from which claims 4-5 and 6-8 depend.

a. Scott teaches use of a power system that may employ either an electric motor or a combustion engine mounted directly on the frame for driving the power assistance wheels through a transmission gearbox and chain and sprocket connection to the drive axle on which the power assistance wheels are journaled (refer Fig 2 and col 4, lines 12-38), rather than an electric hub motor directly mounted within the hub of the power assistance wheel(s), and lacks explicit disclosure of braking means and a battery supplying power to the electric motor (clearly, a battery would be considered inherent in electric motor drives such as disclosed by Scott).

b. However, Brabetz teaches a power assisted hand truck comprising a hub motor (4) mounted directly within the hub of the power assistance wheel (refer Fig 1; and associated text) and having braking means (refer para [0014] and a battery (5) supplying electric power to the

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hub motor and a control system (item 7; and refer para [0014]) for utilization of these devices in power-assisted operation of the hand truck.

C. Therefore, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to have modified the drive train of Scott in accordance with the teachings of Brabetz et al. to include hub motors having built-in braking means and receiving electric power from a storage battery mounted on-board the hand truck and comprising a motor control module configured to both receive a rotational motion command and deliver the necessary signal to the hub motor to rotate the power assistance wheels substantially corresponding to the rotational motion command corresponding to a variable or fixed rotational speed of the power assistance wheel(s) in the forward or reverse rotational directions in order to provide a motorized hand truck suitable whose operation in difficult environments is not hampered by foreign materials entering the drive mechanism and to improve safety to the operator when using the hand truck on difficult terrain as suggested by the reference in paragraphs [0004] and [0005].

***Prior Art made of Record***

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art of Montana; of Tinker; of Miller; and of Reimers each show features in common with some of the other structures of the inventive concept disclosed in the instant application.

***Conclusion***

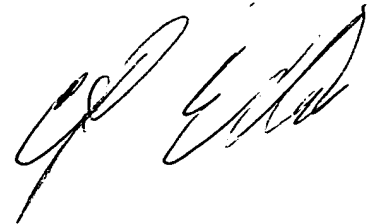
8. Any inquiry concerning this or earlier communication(s) from the examiner should be directed to Gerald B. Klebe at 571-272-6695; Mon.-Fri., 8:00 AM - 4:30 PM ET, or to Supervisory Patent Examiner Christopher P. Ellis, Art Unit 3618, at 571-272-6914.

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Official correspondence should be sent to the following TC 3600 Official Rightfax numbers as follows: Regular correspondence: 703-872-9326; After Finals: 703-872-9327; Customer Service: 703-872-9325.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*gbklebe*  
gbklebe / Art Unit 3618 / 15 July 2005



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